

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 ROSAILDA PEREZ
Deputy Attorney General
4 State Bar No. 284646
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1618
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. *2013-603*

11 **JULES JUH ATEH**
12 **1020 Camino Alto, Unit # 34**
Vallejo, CA 94589

A C C U S A T I O N

13 **Registered Nurse License No. 750327**

14 Respondent.

15
16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
19 official capacity as the Executive Officer of the Board of Registered Nursing (Board),
20 Department of Consumer Affairs.

21 2. On or about May 11, 2009, the Board issued Registered Nurse License Number
22 750327 to Jules Juh Ateh (Respondent). The Registered Nurse License was in full force and
23 effect at all times relevant to the charges brought herein and will expire on August 31, 2014,
24 unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board under the authority of the following
27 laws. All section references are to the Business and Professions Code (Code) unless otherwise
28 indicated.

1 4. Code section 2750 provides, in pertinent part, that the Board may discipline any
2 licensee, including a licensee holding a temporary or an inactive license, for any reason provided
3 in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4 5. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
5 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
6 to render a decision imposing discipline on the license.

7 STATUTORY AND REGULATORY PROVISIONS

8 6. Code section 490 provides, in pertinent part, that a board may suspend or revoke a
9 license on the ground that the licensee has been convicted of a crime substantially related to the
10 qualifications, functions, or duties of the business or profession for which the license was issued.

11 7. Code section 2761 states that the Board may take disciplinary action against a
12 certified or licensed nurse for any of the following:

13 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

14 (1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing
15 functions.

16 ...

17 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
18 functions, and duties of a registered nurse, in which event of the record of the conviction shall be
19 conclusive evidence thereof."

20 8. California Code of Regulations, title 16, section 1442, states:

21 "As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from
22 the standard of care which, under similar circumstances, would have ordinarily been exercised by
23 a competent registered nurse. Such an extreme departure means the repeated failure to provide
24 nursing care as required or failure to provide care or to exercise ordinary precaution in a single
25 situation which the nurse knew, or should have known, could have jeopardized the client's health
26 or life."

27 9. California Code of Regulations, title 16, section 1443, states:

28 "As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the

1 failure to exercise that degree of learning, skill, care and experience ordinarily possessed and
2 exercised by a competent registered nurse as described in Section 1443.5."

3 COST RECOVERY

4 10. Code section 125.3 provides, in pertinent part, that the Board may request the
5 administrative law judge to direct a licentiate found to have committed a violation or violations of
6 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
7 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
8 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
9 included in a stipulated settlement.

10 FIRST CAUSE FOR DISCIPLINE

11 (Unprofessional Conduct)

12 11. Respondent is subject to disciplinary action for unprofessional conduct under Code
13 section 2761, subdivision (a), in that:

14 a. On or about December 13, 2009, while working as a registered nurse and shift
15 lead at Napa State Hospital, Respondent failed to immediately notify hospital communications
16 dispatch that two patients were unaccounted for as required by the hospital's administrative
17 directive governing the unauthorized absence of patients. Instead, Respondent instructed staff to
18 search for the unaccounted for patients. One of the patients committed suicide while unaccounted
19 for.

20 b. On or about November 9, 2010, while working as a registered nurse at Napa
21 State Hospital, Respondent failed to keep a patient in his line of sight as required by the hospital's
22 administrative directive governing constant/in-sight enhanced observations. Instead of having the
23 patient in his direct sight, Respondent allowed the patient to shut the door blocking Respondent's
24 view of the patient.

25 SECOND CAUSE FOR DISCIPLINE

26 (Gross Negligence and/or Incompetence)

27 12. Respondent is subject to disciplinary action for gross negligence and/or incompetence
28 under Code section 2761, subdivision (a)(1), as described in paragraph 11, above.

1 THIRD CAUSE FOR DISCIPLINE

2 (Criminal Conviction of Substantially Related Crime)

3 13. Respondent is subject to disciplinary action under section 2671, subdivision (f), in
4 that on or about April 23, 2010, in Yolo County Superior Court, Case Number 09-1986,
5 Respondent was convicted of having violated Vehicle Code section 20002, subdivision (a) (hit
6 and run with property damage) following his arrest on or about November 8, 2008.

7 PRAYER

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
9 and that following the hearing, the Board of Registered Nursing issue a decision:

- 10 1. Revoking or suspending Registered Nurse License Number 750327, issued to Jules
11 Juh Ateh;
- 12 2. Ordering Jules Juh Ateh to pay the Board of Registered Nursing the reasonable costs
13 of the investigation and enforcement of this case, pursuant to Business and Professions Code
14 section 125.3;
- 15 3. Taking such other and further action as deemed necessary and proper.

16 DATED: JANUARY 31, 2013

17 Louise R. Bailey
18 LOUISE R. BAILEY, M.ED., RN
19 Executive Officer
20 Board of Registered Nursing
21 Department of Consumer Affairs
22 State of California
23 Complainant

24 SF2012402476
25 20647915.doc
26
27
28